Inmates vs. Animals: U.S. Fails the Test of Civilization

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Legend has it that in the fifth century the Asian monk Telemachus ran into a Roman arena to stop the brutality of the gladitorial games. For his interruption, the indignant crowd stoned him to death, but his actions impressed Emperor Honorius enough to put an end to the fights.

The past millenium and a half has arguably witnessed a general improvement in the cultural level of society, in particular many countries having preserved and extended their intolerance of sports that brutally exploit the disadvantaged. Today even cock fighting and pitting canines against each other are illegal in most industrialized nations.

Remnants of gladitorial combat nevertheless persist, notably at two prison rodeos in Angola, La., and McAlester, Okla., where Americans buy tickets to watch inmates wrestle bulls and participate in crowd favorites like "Convict Poker." Also called "Mexican Sweat," the poker game consists of four prisoners who sit expectantly around a red card table. A 1,500-pound bull is unleashed, and the last convict to remain sitting wins. Especially thrilling for the audience is the chaotic finale "Money the Hard Way" in which more than a dozen inmates scramble to snatch a poker chip dangling from the horns of another raging bull.

Unlike prisoners of ancient Rome, convicts at the annual Angola and Oklahoma State rodeos aren't physically forced to compete in the games, or even executed after their performance. Instead, they're paid handsomely -- upwards of $200 for winning "Convict Poker," or $100 for successfully grabbing the chip in "Money the Hard Way." A tour guide clarifies the basic economics: "Since $100 is worth about four months' pay to these hardened criminals, be ready for one hell of a scrap for that c-note."

There are of course some ethical concerns. When "someone raises a question about the propriety of the rodeo," a *Washington Post* article explains, the focus remains on the abuse of bulls and broncos, like the pleas of the animal rights group PETA to cancel the rodeo on animal cruelty grounds. An official from In Defense of Animals writes elsewhere that the event provides inmates with "the right to torment and abuse frightened animals in front of a cheering audience." Moral questions don't arise about the propriety of cheering while bulls pummel convicts.

Prison rodeos may be rare, but it shouldn't be surprising that the mainstream toleration they receive stems from the willingness of the United States to incarcerate 2.2 million of its people. While less than one out of every 20 humans lives in the

United States, almost one quarter of the world's prisoners sit in American jails. The U.S. criminal justice system has no parallel in the contemporary world. History, however, reveals the origins of the system's scope, in addition to the national obsession of denying criminal offenders the decency and rights normally afforded to other humans.

More Americans in prison

In the international race to incarcerate, the United States dominates, with few rivals and no rich countries within shouting distance. Incarceration rates across countries are best measured as shares of national populations. Last year, for every 100,000 people in the United States, 738 were in prison. Second-place Russia, whom the United States succeeded in 2000, currently boasts a rate of 603, but the only other OECD country with a rate above 200 is Poland at 229. The U.K. incarceration rate of 145 is the highest of any Western European country. Although African-Americans suffer the greatest relative burden of U.S. imprisonment, the incarceration rate for whites in the United States is still more than three times the OECD average.

To its credit, the United States hasn't always imprisoned such a large share of its population. Incarceration rates were steady, sometimes falling, and always below 200 throughout the 1960s and early 1970s. The prison population rate rose sharply from 1973 to 1980, and then skyrocketed, more than tripling over the past 25 years.

What caused such a tremendous spike in imprisonment? Increases in crime rates surely made some contribution, but the road to prison involves other components of the criminal justice system, like prosecutorial and judicial decisions, and the time served in jail. Isolating these factors during the period from 1980 to 1996, Carnegie Mellon professor Alfred Blumstein and Bureau of Justice statistician Allen Beck conclude that only 12 percent of state incarceration growth resulted from the increased number of offenses. The rest of the prison population growth was due to decisions to incarcerate arrested individuals and their subsequent sentence length -- namely, policy choices made by legal and political representatives.

Coinciding directly with this astounding expansion of the prison population is the U.S. "war on drugs." Nonviolent drug offenses accounted for less than 8 percent of prisoners in 1980, but by 1993 that share had risen to about 25 percent, where it remains today. By contrast, more than half of those imprisoned in 1980 were violent criminals, who now comprise a bit less than half of the prison population. As a proportion of illicit activity, drug use therefore either tripled in just slightly over a decade and then stabilized, or the focus and severity of U.S. penal and sentencing policy shifted dramatically.

International comparisons also reveal the stark and decisive contribution of criminal justice policies to incarceration rates. Cross-country crime surveys from the late 1980s through the present place the United States slightly above average, but well within the range of Western European criminal activity. The United States is now, of course, off the charts in terms of incarceration, imprisoning on a per capita basis six times the average of other OECD countries.

Incarceration rates in the United States and Finland were not dissimilar in the mid-1960s. Over the following 30 years, the United States saw a near fivefold increase in the rate of violent crime and a threefold increase in the rate of imprisonment. Violent crime also rose in Finland by a factor of three, but over roughly the same period, the promotion of sentencing alternatives to incarceration and deliberate reductions in the length of prison sentences helped to cut the Finnish incarceration rate by more than half.

Assessing these trends, criminologist Michael Tonry writes that whereas U.K. punishment policies were originally not out of the ordinary compared with Western Europe, since 1993 England and Wales "have consciously emulated American crime control policies," resulting in the near doubling of the prison population. In Germany, despite a doubling of the violent crime rate between the early 1960s and 1990s, "no radical decisions were made to increase or decrease the imprisonment rate," and so the German incarceration rate stagnated and even fell somewhat over this period. It is difficult to escape the conclusion that incarceration rates are driven primarily by policy choices, not by crime rates or inexorable laws of nature.

Permanent exclusion

Unsatisfied with mere prison sentences, the United States especially has decided that offenders should continue to pay for their crimes even after release. Some states prohibit hiring teachers or child care workers with criminal records, and drug felons are often denied the occupational mobility necessary for employment in general due to required suspensions or revocations of drivers' licenses. Federal law also allows states to deny offenders public housing, or to bar welfare benefits or food stamps from drug felons, sometimes permanently. Drug-related records can invalidate eligibility for student loans or aid. Even exile has its place in the United States: Foreigners with certain criminal convictions are increasingly deported, a practice which grew twelvefold between 1989 and 2004.

Some of these punishments isolate the United States from the rest of the industrialized world. Most states in this country deny current prisoners the right to vote, some bar felons from voting during probation or parole, and a few strip the vote from felons for life. Although the United States is hardly alone in denying voting rights to the imprisoned, many European nations, including Denmark, Ireland, Spain and Sweden, even allow current prisoners to vote. Nonetheless, the United States appears to be the only democratic country that indefinitely disenfranchises nonincarcerated felons. The United Nations Human Rights Committee recently proclaimed that these felon disenfranchisement practices violate international law, namely the International Covenant of Civil and Political Rights, to which the United States is a party.

Crediting the United States for such exclusionary policies would be unfair. Like prison rodeos and gladiatorial games, these traditions have deep roots in history, as outlaws in ancient Rome and Germanic tribes were likewise deprived of conventional human rights. The United States of today embraces the legal and moral standards of medieval Europe, where disenfranchisement and other practices amounted to what was called "civil death." Criminals there were consequently "dead in law," prevented from performing the normal legal functions of citizenry.

Coupled with the severe and disproportionate toll of the criminal justice system on black America, the reach of civil death is staggering. More than 13 percent of African-American men cannot vote because their felony conviction puts them in prison or on parole, or just simply denies their suffrage. In eight states, at least one out of four black men is disenfranchised. Christopher Uggen at the University of Minnesota and Jeff Manza at Northwestern University calculate that felony disenfranchisement affected a total of 5.4 million Americans in 2004.

Criminal offenders are not only excluded from society by imprisonment and post-prison sanctions, but also due to the subtle fact that those in prison are ignored by most measures of economic well-being. For instance, the unemployment rate measures the nonworking share of the labor force -- those who are actively seeking work. Omitted from this definition, however, are the institutionalized and in particular the incarcerated.

Sociologists Bruce Western and Katherine Beckett note that while Europe is regularly chastised for high labor inactivity, counting the imprisoned as unemployed drastically changes the economic standing of the United States among European countries. In 2004, the standardized U.S. unemployment rate for men was 5.6 percent below the OECD average of about 6.2 percent. Including the prison population as unemployed raises the male U.S. unemployment rate to 7.9 percent, exceeding the modified OECD average (6.6 percent), and placing the United States below only the top five high unemployment countries of Europe.

The point is not that the incarcerated should be counted in the conventional unemployment rate, but rather that vast numbers of able-bodied men are forcibly removed both from civil society in general, and from our very conception of it. Rates for employment, poverty, inequality and virtually every socioeconomic indicator exclude the incarcerated. Prisoners' invisibility to society in conjunction with civil death -- in the United States, at least -- cannot possibly help to ensure their human rights.

Nearly a century ago Winston Churchill remarked that "the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country ... [these actions] mark and measure the stored-up strength of a nation, and are the sign and proof of the living virtue in it." U.S.-style criminal treatment includes disenfranchisement, exile, prison rodeos and innumerable other practices that punish, exclude and effectively erase millions of people. Do these signs constitute our virtue? Are we failing the test of civilization?

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